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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,784	05/01/2001	Rolf Lakomy	2345/153	3669

26646 7590 12/01/2010

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER	
MILEF, ELDA G	
ART UNIT	PAPER NUMBER
3694	
MAIL DATE	DELIVERY MODE
12/01/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/830,784	LAKOMY ET AL.	
	Examiner	Art Unit	
	Elda Milef	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-8,10-13 and 15-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-8, 10-13, 15-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

1. This office action is in response to the amendments submitted by the applicants on 10/07/2010.

- Claims 6-8, 10-13, 15-20 are pending in the application.

Information Disclosure Statement

2. The applicant refers to numerous references in the specification, for example, "Bruce Schneier, Angewandte Kryptographie, [applied Cryptography], Wiley, 1996" on page 3 lines 12-14.

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 6-8, 10-13,15-17, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mean (Meandzija, US Patent No. 6,170,005)in view of Chaney (WO 96/07267) and further in view of Hayes (US Patent No. 6,295,448).

Re claim 6: Mean discloses:

controlling a right-of-access by a customer through a service center, in response to a request from the service provider to the service center, using the specifically assigned EMM clearing signal by performing:

(ii.) a direct clearing operation by sending the specifically assigned EMM clearing signal from the service center, with an assistance of a data transmission service in a digital broadcasting service.

("The method allows a management entity component, such as a computer workstation operated at a control center, to coordinate the actions of different agent components, such as hardware used at the headend or uplink site of a television network. In particular, the agent components may be hardware (e.g., including firmware and software) used to provide conditional access to a

television signal.")-see col. 2 lines 44-51 and ("the output mux 280 may be an MPEG transport stream which includes various other types of data...The output of the scrambler 285 comprises CA data that is subsequently transmitted to an end user, e.g., via CATV network or digital satellite broadcast network. The synchronizer 270 times the multiplexing of the private data from component 230, EMMs from component 240, ECMs from component 220, and control words from component 275...")-see col. 15 line 64-col. 16 line 25, also see cols.3-4;

Although Mean discloses conditional access **–see cols. 1-4,** and EMMs appended to various programming services to authorize the decoders to receive particular programming services**-see col. 15 lines 46-53**, Mean does not explicitly disclose the assignment of the EMM clearing signal to the security module (smart card). **Chaney however, teaches ("Entitlement management involves modifying information stored in the card that specifies the card owner's entitlements ...The processor adds and deletes entitlements in response to entitlement information in entitlement management messages (EMM) that are included in the input signal...")-see pg. 2 lines 11-21, and pages 5-6.** Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean to include adding/deleting entitlements via EMMs that are included in the input signal and stored in a "smart card" as was taught by Chaney in order to store information relating to the limited access to programs on pay-TV systems.

Mean and Chaney do not specifically disclose an approximate location of the querying customer is found with the assistance of at least one of a digital cellular

network and a mobile telephony network. **Hayes however, teaches ("In this embodiment of the present invention, the communication path and the communication format are initially assigned to the mobile telephone(s) 100 and the device(s) 110 either by preprogramming according to the fixed assignment described in FIG. 1 and FIG. 2 or by assignment from the mobile telephone system 120…The selection can be based on any criteria including, but not limited to, the time of day, day of the week or geographic location of the mobile telephone(s) or other device(s)…"). –see col. 9 line 62-col. 10 line 11. Also, see col. 8 lines 24-52, cols. 2,5, FIGs. 2-8.** It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean and Chaney to include determining the geographic location of the mobile telephone as was taught by Hayes in order to effectuate unidirectional and bidirectional communication directly between a mobile telephone and another device such as entertainment equipment interfaces.

Mean discloses the specifically assigned EMM clearing signal for clearing the querying customer is only routed into a digital broadcasting network **("At least one of the first and second agent components may be a conditional access agent component for inserting conditional access data, such as EMMs and ECMs, into the digital broadcast stream.")-see col. 4 lines 11-14, and col. 2 line 65-col.3 line 2.**

Mean and Chaney do not specifically disclose in which the querying customer is situated at a time of a call and ordering of the specifically assigned EMM clearing signal. **Hayes discloses the identification of the cellular phone location and time of day**

as shown above, and Hayes discloses determining a communication path and communication format to be assigned to the mobile telephone and the device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to specifically assign an EMM clearing signal as shown by Mean to the communication path and format to be assigned as shown by Hayes in order to initiate communication directly between the mobile telephone and the other device.

Re claim 7: Mean does not disclose:

wherein an electronically stored, service-specific credit balance is allocatable in monetary units to the security module.

Chaney however teaches ("A card is issued to a user with initial entitlement information stored…Entitlement information may include data identifying the user and data specifying the scope of initial access entitlement (e.g., duration and/or specific programs the user has paid for)…EMM includes information indicating subscription (long term access) and pay-per-view (single program access) services that the user has paid for.")-see p. 5 line 29- p. 6 line 10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean to include storing data on the smart card relating to programs that have been paid for by the user in order to determine if the user paid for a service and therefore has access to that service.

Re claim 8: Mean discloses:

wherein in the indirect clearing operation of the security module of a querying customer, the data transmission service is provided by one of a fixed-line modem, a Global System for Mobile Communications (GSM) modem and a GSM-service Management System (GSM-SMS) modem. **-see ("modem")-col. 16 lines 47-56.**

Re claim 10: Mean discloses:

wherein the chargeable service includes at least one of a pay TV service, a digital radio broadcasting service, a digital video broadcasting service, a service of a Society for Worldwide Interbank Financial Telecommunications and a video-on-demand service. **–see col. 2 lines 52-55, col.4 lines 11-14.**

Re claims 11-13, 15: Further a system would have been necessary to perform the method of previously rejected claims 6-8, 10 and are therefore rejected using the same art and rationale.

Re Claim 16 has similar limitations found in claims 1 and 7 in combination, and therefore is rejected by the same art and rationale.

Re Claim 17 has similar limitations found in claim 8 above, and therefore is rejected by the same art and rationale.

Re claims 19, 20: Mean discloses wherein the chargeable service includes pay TV service (CATV network (acronym for cable television) or satellite network) and digital video broadcast service-**see col. 2 in particular lines 51-64.**

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mean in view of Chaney in view of Hayes as applied to claim 16 above, and further in view of SWIFT ("SWIFT Rolls Out Security Package". Banking World. London; Mar 1994. Vol. 12, Iss. 3; pg. 31, 2 pages).

Re claim 18: Mean, Chaney and Hayes do not explicitly disclose that the chargeable service is a service of a Society for Worldwide Interbank Financial Telecommunications (SWIFT). **SWIFT however, teaches a smart card system installed by SWIFT.(pg. 1).** It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Mean, Chaney and Hayes to explicitly state that the chargeable service includes the services offered by SWIFT (Society for Worldwide Interbank Financial Telecommunications) as taught by SWIFT in order to guarantee through the use of smart cards, the identity of the sender and remove the need for secret information to be sent through post.

Response to Arguments

6. Applicant's arguments filed 10/7/2010 have been fully considered but they are not persuasive.

In response to the applicant's suggestion that none of the references alone or in combination not teach or suggest the security module in the manner claimed and instead appear to concern basic processing of video signals, Meandzija disclose conditional access such as private data, entitlement management messages (EMM),

program-specific information and entitlement control messages with the transmitted programming in col. 2 lines 56-67, Chaney teaches "The IC in a smart card processes data such as security control information as part of an access control protocol." - page 2, lines 1-2. Chaney further teaches “entitlement information may include data identifying the user and data specifying the scope of initial access entitlement…”) page 5 lines 33-35; “accesses control related processing within **smart card 180**, security related data such as key data does not have to be transferred out of a smart card 190. As a result, security is improved significantly..." page 20 lines 23-32. Chaney disclose entitlement information stored in a smart card can be modified by a service provider from a remote location using entitlement management messages (EMM) and entitlement control messages (ECM) that are inserted into portions of the signal. pg. 6, lines. 4-7.

In response to the argument suggesting that none of the references alone or in combination teach an approximate location of the querying customer is found with the assistance of at least one of a digital cellular network and a mobile telephony network; and the specifically assigned EMM clearing signal for clearing the querying customer is situated at a time of a call and an ordering of the specifically assigned EMM clearing signal, Hayes teach (“In this embodiment of the present invention, the communication path and the communication format are initially assigned to the mobile telephone(s) 100 and the device(s) 110 either by preprogramming according to the fixed assignment described in FIG. 1 and FIG. 2 or by assignment from the mobile telephone system 120…The selection can be based on any criteria including, but not limited to, the time of

day, day of the week or **geographic location of the mobile telephone**(s) or other device(s)..."). –see col. 9 line 62-col. 10 line 11. Also, see col. 8 lines 24-52, cols. 2,5, FIGs. 2-8.

The Hayes reference discloses a device can be any device that may be connected to a communication network to communicate with other computing devices col. 5 lines 50-56, and wherein assigning the communication path and format is done through dynamic assignment allowing greater flexibility in assignment of communication paths such as assignment depending on the geographic location of the mobile telephone and other devices col. 4 lines 24-50. Hayes disclose a technique for modulating an information signal on the communication path.[ordering the assigned EMM clearing signal]-col 3, lines 33-43.

In response to the argument that Swift does not teach controlling right-of-access using the specifically assigned clearing signal by performing as described in the claim, the Swift reference was relied upon to disclose the introduction of smart cards guaranteeing the identity of the sender and removing the need for secret information to be sent through the mail regarding interbank financial telecommunications. The Swift reference further disclose smart card readers for authentication and access.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Friday 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571)272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elda Milef/
Examiner, Art Unit 3694

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